

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

TRI STATE ADVANCED SURGERY CENTER, LLC,
GLENN A. CROSBY II, M.D., F.A.C.S., and
MICHAEL HOOD, M.D.,

Plaintiffs,

vs.

Civil Action No. 3:14-CV-00143-JM

HEALTH CHOICE, LLC, and
CIGNA HEALTHCARE OF TENNESSEE, INC.,

Defendants.

CONNECTICUT GENERAL LIFE INSURANCE COMPANY,
CIGNA HEALTH AND LIFE INSURANCE COMPANY and
CIGNA HEALTHCARE OF TENNESSEE, INC.,

Counterclaim-Plaintiffs,

vs.

SURGICAL CENTER DEVELOPMENT, INC. d/b/a SURGCENTER DEVELOPMENT, and
TRI STATE ADVANCED SURGERY CENTER, LLC,

Counterclaim-Defendants.

TRI STATE ADVANCED SURGERY CENTER, LLC,

Counter-Counterclaim-Plaintiff,

and

GLENN A. CROSBY, II, M.D. and MICHAEL HOODS, M.D.,

Third-Party Plaintiffs,

vs.

CIGNA HEALTHCARE OF TENNESSEE, INC.,
CIGNA HEALTH AND LIFE INSURANCE COMPANY, and
CONNECTICUT GENERAL LIFE INSURANCE COMPANY,

Counter-Counterclaim Defendants.

and

HEALTH CHOICE, LLC,

Third-Party Defendants

**MOTION OF SURGERY CENTER DEVELOPMENT, INC., TRI STATE ADVANCED
SURGERY CENTER, LLC, DR. GLENN A. CROSBY, II, AND DR. MICHAEL HOOD
FOR MISCELLANEOUS DISCOVERY RELIEF**

Pursuant to Rule 37 of the Federal Rules of Civil Procedure, Surgical Center Development, Inc. (“SurgCenter”), Tri State Advanced Surgery Center, LLC (“Tri State”), Dr. Glenn A. Crosby, II, and Dr. Michael Hood (collectively “Plaintiffs”), respectfully submit this Motion for Miscellaneous Discovery Relief. Through this motion, undersigned counsel seek an order from this Court requiring Defendants Connecticut General Life Insurance Company, CIGNA Health and Life Insurance Company, and CIGNA Healthcare of Tennessee, Inc. (collectively “Cigna”) to permit undersigned counsel for SurgCenter and Tri State (counsel of record in this case) to have access to unredacted copies of discovery materials, deposition testimony and pleadings from a similar case presenting similar claims pending in federal district court in Colorado in which both Cigna and SurgCenter are parties. Cigna has thus far refused to permit undersigned counsel to access and review these discovery materials.

The basis for the relief sought by Plaintiffs is fully set forth in their supporting memorandum, which is being filed contemporaneously herewith. ***Although the parties have conferred in good faith on this issue, they have been unable to resolve their dispute without seeking the Court’s intervention.***

For the foregoing reasons, and as set forth in detail in their supporting memorandum, Plaintiffs respectfully request that this Court enter an order requiring Cigna to permit undersigned counsel to access and review materials produced in and associated with *Arapahoe Surgery Center, LLC, et al. v. Cigna Healthcare, Inc., et al.*, Case No. 1:13-cv-3422 (D. Colo.) (the “Colorado Action”) that are designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL pursuant to the Protective Order entered in that case, including documents produced in discovery, deposition testimony, and unredacted pleadings with exhibits (the “Colorado Action Materials”).

Plaintiffs further request an in-person hearing before the Court on these issues and expedited treatment of the instant motion. Plaintiffs submit that a hearing would fully apprise the Court of the commonality of issues between the instant litigation and the Colorado litigation, the reasons why access to these materials would be consistent with the Federal Rules of Civil Procedure, and the inequity faced by Plaintiffs and undersigned counsel if only Cigna's counsel continues to have access to these materials.

Dated: February 29, 2016

Respectfully submitted,

BURCH, PORTER & JOHNSON, PLLC

/s/ Douglas F. Halijan

Douglas F. Halijan (TN # 16718)

Molly Glover (TN # 16113) (admitted pro hac vice)

Shea B. Oliver (TN # 29330) (admitted pro hac vice)

Charles S. Higgins (TN # 30184) (admitted pro hac vice)

130 North Court Avenue

Memphis, TN 38103

Phone: (901) 524-5000

Fax: (901) 524-5024

dhalijan@bpjlaw.com

mglover@bpjlaw.com

soliver@bpjlaw.com

chiggins@bpjlaw.com

Scott Poynter (AR # 90077)

STEEL, WRIGHT, & COLLIER, PLLC

400 W. Capitol Ave., Suite 2910

Little Rock, AR 72201

Phone: (501) 251-1587

scott@poynterlawgroup.com

***ATTORNEYS FOR TRI STATE ADVANCED
SURGERY CENTER, LLC, SURGERY CENTER
DEVELOPMENT, INC., DR. GLENN A. CROSBY, II,
and DR. MICHAEL HOOD.***

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of February, 2016, the foregoing document was served upon all counsel of record via the Court's CM/ECF system.

Joshua B. Simon
Warren Haskel
Dmitriy G. Tishyevich
Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
jsimon@kirkland.com
whaskel@kirkland.com
dtishyevich@kirkland.com

ATTORNEYS FOR CIGNA PARTIES

Leigh M. Chiles
Leo M. Bearman, Jr.
Matthew S. Mulqueen
Baker, Donelson, Bearman, Caldwell &
Berkowitz, PC
First Tennessee Bank Building
165 Madison Avenue, Suite 2000
Memphis, TN 38103
Telephone: (901) 577-2207
Facsimile: (901) 577-2303
lchiles@bakerdonelson.com
lbearman@bakerdonelson.com
mmulqueen@bakerdonelson.com

Lea Carol Owen
Baker, Donelson, Bearman, Caldwell &
Berkowitz, PC
211 Commerce Street, Suite 800
Nashville, TN 37201
Telephone: (615) 726-5600
cowen@bakerdonelson.com

***ATTORNEYS FOR HEALTH CHOICE,
LLC***

/s/ Douglas F. Halijan